

**REMARKS**

Claims 1-11 are all the claims pending in the application. By this Amendment, Applicant amends claims 1 and 9. No new matter is added. Support for the amendments is found, *e.g.*, at pages 1 and 2 of the specification as filed.

For example, Applicant respectfully submits, that it is well known in the art that non-realtime data telegrams and realtime data telegrams contain user application data. *See, e.g.*, Krause's paragraph [0034], page 4, right col., lines 46-49. Applicant respectfully notes that in the background of the invention, the German patent application 100 58 524 to Krause has been incorporated into the present Application by reference, whereby the above-noted German patent application corresponds to U.S. Patent Application US 2002/0064157.

In addition, Applicant respectfully notes that realtime data telegrams carry time sensitive user information *e.g.*, user voice during a teleconference or measurement value indicating overflowing container in a technical installation. Non-realtime data telegrams carry less sensitive user information *e.g.*, website requested by the user or a temperature measurement of the liquid in the container. Such non-realtime data is clearly different from control data that is used for the organization of the data transmission. *See* Krause's paragraph [0034], page 4, right col., lines 24-25. As discussed in a background of the invention, data of the automation system *e.g.*, measurement values from sensors, are transmitted in various cycles (pages 1-2 of the specification).

Accordingly, Applicant respectfully submits that the amendment to claims 1 and 9 is clearly supported by the specification as originally filed.

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Reconsideration and allowance of claims 1-11 are respectfully requested in view of the following remarks.

I. Claim Rejection Under 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 1 and 9 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant has amended claims 1 and 9 to overcome this rejection. Accordingly, Applicant respectfully requests that the rejection of claims 33-36 under 35 U.S.C. § 112, first paragraph be reconsidered and withdrawn.

II. Claim Rejections and Statement of Substance of the Interview

Claims 1-3 and 5-11 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2002/0064157 to Krause (hereinafter "Krause"). Applicant respectfully traverses this rejection because the reference fails to describe each and every element as set forth in the claims, either expressly or inherently.

Applicants respectfully traverse these grounds of rejection at least in view of the following exemplary comments.

Applicants thank the Examiner for a courteous telephonic interview on August 12, 2008. An Examiner's Interview Summary Record (PTO-413) was sent to Applicant's representatives on August 18, 2008. The PTO-413 requires the Applicant to file a Statement of Substance of the Interview. The Statement of Substance of the Interview is as follows:

During the interview, independent claim 1 was discussed in view of the 35 U.S.C. § 102(e) rejection. Applicant noted that "in a third phase during the transmission cycle, sending at least one of short filler telegrams and non-realtime data telegrams while suppressing the

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transmission of those of the non-realtime data telegrams for which the transmission cannot be concluded during the third phase, . . . wherein the non-realtime data telegrams contain user application data” in combination with other features set forth in claim 1 is not disclosed or suggested in the prior art of record. The Examiner agreed that the above-noted feature of claim 1 is not taught by the prior art of record.

Further, Applicant noted in the interview that Krause does not disclose or suggest the condition of “suppressing the transmission of those of the non-realtime data telegrams for which the transmission cannot be concluded during the third phase,” as recited in claim 1. Krause merely teaches that “in the first section 13 which is intended for the transmission of real-time-critical data, a certain period is reserved for transmitting data telegrams for the organization of the data transmission 15.” See Krause’s paragraph [0034], page 4, right col., lines 24-25. There is no step in Krause which determines if the transmission of data telegrams for the organization of the data transmission cannot be concluded in the first section 13 and which suppresses the transmission of data telegrams for the organization of the data transmission 15 if the above-noted condition is met. Simply reserving a certain period for transmission is clearly not determining if a transmission can or cannot be concluded during a certain period of time.

Therefore, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Decker does not remedy the deficiencies of Krause. Claim 9 recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1.

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Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, therefore, independent claim 9 is patentable over the prior art of record. Claims 2-8, 10 and 11 are patentable at least by virtue of their dependencies from claims 1 and 9, respectively

II. Conclusion

Entry and consideration of this Amendment are respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below to discuss any outstanding matter in an Interview.**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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